



ORIGINAL

Federal Communications Commission
Washington, D.C. 20554

SEP 10 1998

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96-198

EX-101, BUREAU OF RECORDS

IN REPLY REFER TO:
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SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Carol Moseley-Braun
United States Senate
324 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Moseley-Braun:

This is in response to your letter on behalf of your constituent, Gail B. Kear, Executive Director of Living Independence For Everyone—Center for Independent Living, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

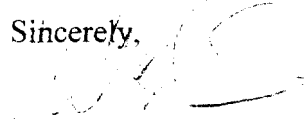
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. B. Phythyon", written over a horizontal line.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

CAROL MOSELEY-BRAUN
ILLINOIS

COMMITTEES:
BANKING, HOUSING, AND
URBAN AFFAIRS
FINANCE
SPECIAL AGING

United States Senate
WASHINGTON, DC 20510-1303

July 10, 1998

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Karen Kornbluh
Director
Office of Legislative Affairs
Federal Communications Commission
1919 M. Street, N.W. Room 808
Washington, D.C. 20554

Dear Friend:

Enclosed is an inquiry I received from my constituent, Gail B. Kear.

Because of my desire to be responsive to all communications, your consideration of the matter is requested.

Please return your findings in duplicate form along with this correspondence to the attention of Rebecca Stoecker on the envelope only.

Thank you very much for your consideration.

Yours truly,



Carol Moseley-Braun
United States Senator

CMB:rs



**LIVING INDEPENDENCE FOR EVERYONE (LIFE-CIL)
CENTER FOR INDEPENDENT LIVING**

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June 22, 1998

The Honorable Carol Moseley-Braun
Kluczynski Federal Building
230 South Dearborn Street, Suite 3900
Chicago, IL 60604

Dear Senator Moseley-Braun:

I have a severe hearing loss, wear a hearing aid, and for 43 years have struggled daily to use telecommunications devices. The advent of cellular telephones, voice mail, and automated voice response systems have caused me to struggle more now than ever before, when technology should have been able to make it easier. There are 22 million Americans who are hard of hearing plus 2 million who are deaf. For too many of us, telecommunications which are so essential for employment, access to public services and businesses, and all aspects of daily life are just not very accessible.

I am writing to express my serious concerns with the Federal Communications Commission (FCC) Notice of Proposed Rulemaking (NPRM) on the access provisions of the Telecommunications Act of 1996. I believe that the FCC proposal is inconsistent with Congressional intent to make telecommunications services accessible to people with disabilities. My concerns are outlined below.

It is unclear whether or not the FCC intends to adopt the Access Board guidelines, which were published in February 1998. Congress gave the Access Board authority for developing guidelines and indicated that the FCC guidelines must be consistent with those. Further, the FCC is undecided as to whether the guidelines should be applied to service providers as well as manufacturers. Please urge that the FCC adopt the Access Board guidelines for both manufacturers and service providers. Both must have clear responsibilities for access and design of new equipment that is accessible to the hearing impaired.

I often have had great difficulty finding telephones (including pay phones with volume boosters) that will turn up loud enough. When I needed a cellular telephone for my job, I tried to use the loudest one available, but had to give it up. Recently I was able to get a cellular phone with a special "telecoil silhouette" attachment that makes the phone accessible to me, but the phone cost \$35 more, the telecoil cost \$150, and I can't even hear the phone ring. The telecoil silhouette attachment is not on display in any cellular phone store, nor do most salesmen know about it. I only found out about it because a catalog including one came into the center for independent living where I work.

The purpose of the FCC is to enable all persons with disabilities to recognize and to exercise their right to choose their living situations.

When Congress wrote the Telecommunications Act, it adopted the term "readily achievable" from the Americans with Disabilities Act to describe a company's obligation to make products accessible, excepting only changes that involve a significant financial burden. The FCC deviates dramatically from this standard by introducing the concept of "cost recovery," which undermines the concept of accessibility in our society.

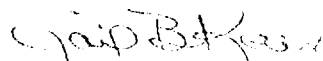
One example of an accessible feature that was not mandated, but should be readily achievable, is the inclusion of telecoils for analog cellular telephones. With these, people who use hearing aids could much more easily use cellular telephones, and would not have to purchase expensive accessories. Including jacks as a standard feature would allow telecoil silhouettes and other adaptive devices to be used more affordably. Including the option for cellular phones to vibrate as well as ring would make them more usable for people with hearing impairments, and would be useful for everyone in places where ringing phones are not appropriate.

Voice mail, automated voice response systems, and other "enhanced services" have become very widely used, yet the FCC's proposed rules omit them from coverage under Section 255. People who are hard of hearing and use voice telephones find them difficult to use. Such systems cannot be accessed directly by people who use TTYs, or even TTY relay services due to the longer time required for the operator to type the choice and have the individual respond. Increasingly, hard of hearing people cannot complete critical calls that include such enhanced services, making many public services and businesses inaccessible to them.

I have personally struggled with hundreds of automated voice response systems. For a significant number, I have had to make multiple long-distance phone calls to try to listen to the instructions over and over, and many times I've hung up in frustration, unable to ever complete my business. Or I have to get someone else to make the call for me, which is both embarrassing and inefficient in the workplace. A design that would allow a standardized, "automatic out" would allow people like me to reach a live person.

Since the passage of the Americans with Disabilities Act, the United States has come a long way in making buildings accessible to people with disabilities. Assuring that telecommunications will be fully accessible to people with hearing impairments will go a long way toward helping 24 million people who are hard of hearing or deaf have full access in education, employment, and full participation in today's society. I hope you will contact William Kennard, the Chairman of the FCC, about these concerns.

Sincerely,



Gail B. Kear
Executive Director